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LS-7-1002
LS-4416

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10 October 1953

[redacted]
Office of General Counsel

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[redacted] "Two Years Continuous Service Abroad"

REFERENCE: Your memoranda of 24 July 1953 and 20 August 1953,
same subject.

OGC HAS REVIEWED.

1. This will acknowledge your request for a re-examination of the effect of leave without pay on the concept of two years continuous service abroad as used in the Agency field regulation pertaining to home leave.

2. On 22 May 1953 this office prepared a memorandum for the record in which it was stated that leave without pay of less than 30 calendar days would not constitute a break in the continuity of service. The memorandum has apparently created the impression that this office would reach a contrary conclusion in case of leave without pay taken in excess of 30 days. You have referred the case of [redacted] to us for decision on this specific point. [redacted] departed for her overseas assignment in September 1952. She has been in a leave without pay status on emergency leave in the United States on two occasions for the following periods:

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6 December 1952 - 5 January 1953
10 May 1953 - 28 June 1953

3. On 23 February 1950 this Agency requested the Comptroller General to render an opinion on the effect of emergency or sick leave on the continuity of continuous service abroad. As question four the Agency requested the opinion of the Comptroller General as to whether, granted that emergency or sick leave do not interrupt the continuity of such service, the amount of leave taken would be subject to a maximum time limitation. The Comptroller General's decision (Number B-933665) dated March 16, 1950 reaches the conclusion that periods of emergency or sick leave spent in the United States need not be held to constitute a break in the continuity of service abroad, but also should not be counted as service abroad and, therefore, should be tacked on to the normal period of service abroad. The opinion

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concludes with the following statement:

"With respect to question 4, the amount of leave taken in the United States under conditions specified in questions 1, 2 and 3 would not appear to be material except, of course, that it should not exceed the maximum amount of sick or annual leave which may be granted under the applicable annual and sick leave regulations."

4. This office is of the opinion, therefore, that leave without pay, taken under emergency conditions in the United States, is not subject to time limitation before breaking continuous service abroad, but has the result of extending the tour of the individual concerned for a period equal to the amount of leave without pay taken. [redacted] will therefore not be required to start her two year tour again effective 28 June 1953, but will be required to add to her existing tour the amount of leave without pay listed in your memorandum of 24 July 1953. Insofar as former opinions of this office may be inconsistent with this ruling they will not be followed by this office in the future.

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OGC/TMF:cd (10 October 1953)
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